

KENTUCKY REVENUE CABINET
OFFER IN SETTLEMENT

1. NAME AND ADDRESS OF TAXPAYER

FOR CABINET USE ONLY

CASE NUMBER _____

AMOUNT OFFERED _____

AMOUNT PAID _____

AMOUNT DEFERRED _____

2. SOCIAL SECURITY NUMBER

3. FEDERAL ID NUMBER

a. _____

b. _____

TO: SECRETARY OF THE REVENUE CABINET

4. I/we (includes all types of taxpayers) submit this offer to settle the tax liabilities plus any interest, penalties, additions to tax and additional amounts required by law (tax liability) for the type tax and period checked below: (Please mark "X" for the correct description and fill in the correct tax period(s), adding additional periods if needed.)

a. ☐ Income tax for the year(s) 19____, 19____, 19____, 19____ and 20____.b. ☐ Withholding tax for the period(s) ended (for example, 6/92) _____c. ☐ Sales and use tax for the period(s) ended (for example, 6/92) _____d. ☐ Coal severance tax for the period(s) ended (for example, 6/92) _____e. ☐ Other (be specific) _____f. ☐ Check here if you are a corporate officer offering to settle your personal liability for trust fund taxes (withholding, sales and/or coal severance) of (name of corporation): _____

5. I/we offer to pay \$ _____

If you are not making full payment with your offer, write below when you will make full payment. (For example, within 10 days from the date the offer is accepted.) See the instructions for Item 5.

6. I/we submit this offer for the reason(s) checked below:

☐ Doubt as to collectibility ("I agree that I owe the liabilities covered by this offer, but I cannot pay."). You must include a completed Statement of Financial Condition, Form 12A638(I), for an individual or Form 12A639(I) for a business. You should also include a detailed statement explaining why the offer is more than can be collected from current assets and present and future income.

☐ Doubt as to liability ("I do not believe I owe this tax."). You must include a detailed statement explaining the reason(s) why you believe you do not owe the tax.

7. IMPORTANT: SEE REVERSE FOR TERMS AND CONDITIONS

Under the penalties of perjury, I declare that I have examined this offer, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

a. Signature of Taxpayer-proponent _____ Date _____

b. Signature of Taxpayer-proponent _____ Date _____

FOR CABINET USE ONLY

I accept the waiver of the statutory period of limitations for the Revenue Cabinet.

Signature of Authorized Revenue Cabinet Official _____

Title _____

Date _____

8. By submitting this offer, I/we understand and agree to the following terms and conditions:
- a. I/we voluntarily submit all payments made on this offer.
 - b. The Kentucky Revenue Cabinet (KRC) will apply payments made under the terms of this offer in the best interests of the Commonwealth.
 - c. If KRC rejects the offer or I/we withdraw the offer, KRC will return any amount paid with the offer. If I/we agree in writing, KRC will apply the amount paid to the amount owed. If I/we agree to apply the payment, the date the offer was made will be considered the date of payment. I/we understand that KRC will not pay interest on any amount I/we submit with the offer.
 - d. I/we will comply with all state Kentucky Revised Statutes and Administrative Regulations relating to filing my/our returns and paying my/our required taxes for five years from the date KRC accepts the offer.
 - e. I/we waive and agree to the suspension of any statutory period of limitation (time limits provided for by law) for KRC assessment and collection of the tax liability for the tax periods checked in Item 4.
 - f. KRC will keep all payments and credits made, received, offset or otherwise applied to the amount being settled before this offer was submitted. KRC will also keep any payments made under the terms of an installment agreement and/or offset from any source while this offer is pending.
 - g. KRC will keep any refund, including interest, due to me/us because of overpayment of any tax or other liability, for tax periods extending through the calendar year that KRC accepts the offer. For the same period of time, if any part of the tax liability covered by this offer is for individual income tax, any federal income tax refund that may become due you may be offset pursuant to 26 USC §6402(e). These conditions do not apply if the offer is based only on doubt as to liability.
 - h. I/we will return to KRC any refund identified in Item g received after submitting this offer. This condition does not apply if the offer is based only on doubt as to liability.
 - i. The total amount KRC can collect under this offer cannot be more than the full amount of the tax liability.
 - j. I/we understand that I/we remain responsible for the full amount of the tax liability unless and until KRC accepts the offer in writing and I/we have met all the terms and conditions of the offer. KRC will not remove the original amount of the tax liability from its records until I/we have met all the terms and conditions of the offer.
 - k. I/we understand that the tax I/we offer to settle is and will remain a tax liability until I/we meet all the terms and conditions of this offer. If I/we file bankruptcy before the terms and conditions of this offer are completed, any claim KRC files in the bankruptcy proceeding will be a tax claim.
 - l. Once KRC accepts the offer in writing, I/we have no right to contest, in court or otherwise, the amount of tax liability.
 - m. The offer is pending starting with the date an authorized KRC official signs this form and accepts my/our waiver of the statutory period of limitation. The offer remains pending until an authorized KRC official accepts, rejects or withdraws the offer in writing.
 - n. The waiver and suspension of any statutory period of limitation for assessment and collection of the amount of tax liability described in Item 4 continues to apply:
 - (i) while the offer is pending (see Item m above);
 - (ii) during the time I/we have not paid all the amount offered;
 - (iii) during the time I/we have not completed all terms and conditions of the offer; and
 - (iv) for one additional year beyond the time periods identified in (i), (ii) and (iii) above.
 - o. If I/we fail to meet any of the terms and conditions of the offer, the offer is in default, and KRC may:
 - (i) immediately file suit to collect the entire unpaid balance of the offer;
 - (ii) immediately file suit to collect an amount equal to the original amount of the tax liability as liquidated damages, minus any payments received under the terms of this offer;
 - (iii) disregard the amount of the offer and apply all amounts paid under the offer against the original amount of tax liability;
 - (iv) file suit or levy to collect the original amount of tax liability, without further notice of any kind.
 - p. I/we understand and agree that this offer is on behalf of only those taxpayers who sign as taxpayer-proponents in Item 7a or 7b. The Commonwealth of Kentucky reserves all rights of collection against co-obligors if any (see instructions).

**DOCUMENTATION WHICH MUST BE SUBMITTED
WITH THE OFFER IN SETTLEMENT**

1. Statement of Financial Condition for Individuals, Form 12A638(I), and/or Statement of Financial Condition for Businesses, Form 12A639(I).
2. Copy of last income tax return filed with proof of tax paid.
3. Bank statements for the past three months.
4. Savings account statements for the past six months and proof of current IRA, 401(k) and/or other retirement account balances. Letters from retirement account administrators showing the loan value of the account.
5. Letter from a broker or other party you have dealt with showing a record of all stock transactions for the past six months, including values.
6. Letter from each life insurance company showing the current cash surrender and loan values with balance of any outstanding loans.
7. Copies of all deeds or instruments of ownership in real property. Letters from lenders showing the current balance due on each mortgage.
8. Itemized listing of household assets (by room) showing the value of each item. Letter from each lender currently holding the household assets as collateral showing the current balance due.
9. Copy of each vehicle title or leasing contract. (Also applies to all motorcycles, boats, motorhomes/trailers, aircraft, etc.) Letter from each secured party showing the current balance due.
10. Copy of each judgment with letter showing the balance due.
11. List of all accounts and notes payable which includes names, addresses and balances due.
12. List of all notes receivable which includes names, addresses and balances due.
13. Information relating to any other assets in which you may have an interest or future interest under state law.
14. Record of wages or other earnings for the current year. Include copies of pay stubs for the last three months.
15. If you or a member of your immediate family owns a business or has a controlling interest in a corporation, you should be prepared to make a complete financial disclosure regarding same to include:
 - a. copies of all returns filed in the last 12 months;
 - b. most recent profit and loss statement and balance sheet;
 - c. bank statements for the last three months;
 - d. listing of accounts receivable, to include name, address, amount due and age; and
 - e. any other records which would reflect the equity of the business.
16. Additional information may be requested at a later date.

In addition to the information listed above, a detailed statement explaining why the amount offered is more than can be collected from current assets and present and future income must accompany the offer.

INSTRUCTIONS

Background

Kentucky Revised Statute 131.030(3) allows delegated officials of the Kentucky Revenue Cabinet (KRC) to settle a tax liability for less than the full amount due. The term "tax liability" is the total amount a taxpayer owes, including taxes, penalties, interest, additions to tax and additional amounts required by law.

Reasons for Settling

We (KRC) can settle the amount owed for the following reasons:

- doubt as to collectibility, i.e., doubt that KRC can collect the full amount due ("I cannot pay.") and/or
- doubt as to liability, i.e., doubt as to whether you owe the amount ("I do not believe I owe the tax.").

We cannot legally accept a settlement based on doubt as to collectibility when there is no doubt that we can collect the full amount owed. We also cannot legally accept a settlement based on doubt as to liability when the amount owed has already been decided in court.

If you submit an offer based on doubt as to liability, you must include a written statement describing in detail why you do not believe you owe the liability.

KRC Policy

We will accept an offer in settlement when it is unlikely that we can collect the full amount owed and the amount you offered reasonably reflects collection potential. Our goal is to collect the most we can at the earliest possible time with the least cost to the Commonwealth.

In delinquent tax cases where an offer in settlement appears to be a workable solution, a KRC employee will discuss the settlement alternative with you and help prepare the required forms if necessary. You are responsible for making the first specific proposal for settlement.

The offer in settlement process will be successful only if you make an adequate proposal consistent with your ability to pay. Taxpayers are expected to provide reasonable documentation to verify their ability to pay. The goal is a settlement which is in the best interest of both the taxpayer and the Commonwealth. Acceptance of an adequate offer also creates a fresh start for the taxpayer regarding future filing and payment requirements.

Offer Investigation

KRC will investigate your offer to determine if the proposed amount is the maximum you can pay. This means that we may ask for information to verify your financial statement (Form 12A638(I) or Form 12A639(I)). We may ask you to increase the amount of your offer or to change the terms of payment, or we may find that we cannot accept your offer.

Questions KRC Will Consider

The KRC goal is a settlement that is in the best interest of both the Commonwealth and the taxpayer. **It is your responsibility to show us why it would be in the Commonwealth's best interest to accept your offer.** When we consider your offer we must ask the following questions:

1. Could we collect the entire amount through liquidation of your assets or through an installment agreement based on your present and future income? If the answer is "yes," we cannot accept your offer.
2. Could we collect more from your assets and future income than you offer? If the answer is "yes," you must offer a larger amount or we will reject your offer.
3. Would we be better off waiting until a future date because the evidence shows that collection in the future would result in more money than you offer now? If the answer is "yes," you must increase the amount of your offer or we will reject your offer.

The fact that you currently have no assets or income does not mean KRC should simply accept anything that you offer because that is all we can collect now. KRC will not decide that "something is better than nothing." For example, it is not usually in our best interest to accept \$25 on a \$1,000 liability or \$1,000 on a \$100,000 liability. It is usually better for us to reject a nominal offer and wait to see what collection potential arises during the remainder of our collection period.

We will accept your offer only if you submit a legitimate proposal that is in the Commonwealth's best interest.

Possible Additional Requirements

Generally, KRC believes that you benefit if we accept your offer because you can then manage your finances without the burden of tax liability. Therefore, we may require you to submit one of the following agreements before we accept your offer:

1. A written agreement that requires you to pay a percentage of future earnings.
2. A written agreement to give up certain present or potential tax benefits.

Tax Compliance

We will not accept your offer if you have not filed all required returns for yourself and your business.

Suspending Collection

Submitting an offer does not automatically suspend our collection activity. If there is any indication that you filed the offer only to delay collection of the tax or that delay would interfere with our ability to collect the tax, we will continue our collection efforts. If you agreed to make installment payments before you submitted your offer, you must continue making those payments.

How to Complete Form 12A018

Item 1—Enter your full name and address. If the tax liability is owed jointly by a husband and wife and both wish to make an offer, show both names. If you are making an offer for yourself, you should include amounts you owe individually, such as business taxes, and amounts owed jointly, such as income tax, on the same offer. However, if you and your spouse are making an offer for amounts owed jointly, you must file one offer for the joint liability and another offer for the business liabilities which are owed individually by you.

Item 2—Show the Social Security number of each person who is making the offer.

Item 3—If you operate a business, show your federal identification number.

Item 4—Please mark “X” and list the periods for all liabilities you offer to settle.

If the type of liability is not preprinted, specify the type of tax and periods of liability in “Other.” If you are a corporate officer offering to settle a tax for which you can be held liable (withholding, sales and use, and coal severance taxes), list the periods to be settled on the appropriate lines and mark “X” on Item 4f.

Item 5—Show the total amount you offer. Do not include any amount you have already paid or that KRC already has collected. If you are not sending the whole amount with your offer, describe the details of your offer, including:

- Any amount you deposited with the offer.
- Any amount you deposited for a prior offer and now want applied to this offer.
- The amount of any subsequent payment(s) you will make and the date you will make them.

You should pay the full amount of the offer in the shortest time possible. Under no circumstances should payment extend beyond one year. However, if we find you can pay in a shorter time, we will require you to pay the full amount offered in less than one year, or we will reject your offer. If you pay earlier, it will reduce the amount of interest due because KRC charges interest from the date of acceptance until the date you pay the full amount offered.

If you send a payment with your offer, KRC will deposit it in a special fund while we consider your offer. KRC will not pay any interest whether your payment is ultimately applied to an accepted offer, applied to the amount owed (if you agree) or returned to you. When KRC cashes your check, it does not mean your offer is accepted.

Item 6—Check one.

Item 7—Before you sign, make sure you understand the terms and conditions of your offer. Your signature in Item 7a or 7b indicates you are agreeing that:

- a. Any statutory period for assessment and collection of the amount owed is suspended while the offer is pending, during the time you have not fulfilled any term or condition of the offer, and for one year after the offer is no longer pending and after the date you fulfill all terms and conditions of the offer.
- b. You will not contest, in court or otherwise, the amount owed if we accept your offer.
- c. You give up any overpayments (i.e., refunds) for all tax periods prior to and including the year KRC accepts your offer.
- d. KRC can reinstate the entire amount owed if you do not comply with all the terms and conditions of the offer, including the requirement to file returns and pay tax for five years.

Notice About Co-obligors

The parties who are liable for tax with you are co-obligors. Unless these co-obligors sign the offer as a taxpayer-proponent, KRC may pursue them for the remaining amount due after accepting your offer.

Under Kentucky law, corporate officers are ultimately jointly and individually liable for certain trust fund taxes (withholding, sales and use, and coal severance taxes).

Kentucky Revised Statutes also hold partners in a business jointly and individually liable for all types of taxes due from the business. Kentucky law also holds husbands and wives who file joint or combined income tax returns jointly and individually liable for the tax due on the return.

Where to File Your Offer

Offers in settlement should be sent to the attention of the KRC employee who is handling your case. If you do not know who that is, you can call the Division of Collections at (502) 564-4921 to find out. The mailing address is:

Division of Collections
Revenue Cabinet
P.O. Box 491
Frankfort, KY 40602-0491

Financial Statement

If you submit your offer on the basis of doubt as to collectibility, you must submit a Statement of Financial Condition for Individuals, Form 12A638(I), or a Statement of Financial Condition for Businesses, Form 12A639(I). If you are an individual who operates a business, you must submit both forms.

You must complete all items on these forms. You must include income and assets which belong to your spouse, even if he/she is not liable for the tax. Write N/A (not applicable) in any items that do not affect you. You must also provide other supporting documentation as indicated on page 3.

Taxpayers completing a statement of financial condition for businesses must include an income and expense analysis (Section III) for the 12 months prior to when the offer is submitted.

Returning Your Offer

We will return your offer to you for clarification if we cannot process it because it contains any of the following problems:

1. the taxpayer is not adequately identified,
2. the liabilities to be settled are not identified,
3. no amount is offered,
4. appropriate signatures are not present,
5. financial statements are not submitted, or
6. the supporting documentation listed on page 3 is not submitted.

If We Reject Your Offer

If you submit an offer based on doubt as to collectibility and we find you can pay more than the amount offered, your offer will be rejected. If you submit an offer based on doubt as to liability and we find that you are still liable, the offer will be rejected.

If you submit an offer on the basis of doubt as to collectibility, you must make financial disclosure. If you do not make full financial disclosure, the offer will be rejected.

If you submit an offer on the basis of doubt as to collectibility or liability and you are not in compliance with current filing and payment requirements, the offer will be rejected.

If we reject your offer, regardless of the reason, you will receive written notice with an explanation of why the offer was not acceptable. If you submitted a deposit with an offer, we will send a memorandum seeking your permission to apply your deposit to your liabilities. If you do not return the memorandum, your deposit will be refunded.